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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 577

EUSEBIUS JAMES BIGGS,
Petitioner,

vs.

ANTON PLEBANEK, VICTORIA PLEBANEK, JOHN BARA, ELEANOR BARA, and the CHICAGO TITLE & TRUST CO.,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

EUSEBIUS J. BIGGS,
8536 S. Peoria Street,
Chicago 20, Illinois,
Petitioner.

DARK PAGE BLEEDTHRU

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Eusebius James Biggs, hereinafter referred to as the petitioner prays that a writ of certiorari issue to review the opinion of the Appellate Court of the First District of Illinois, which was affirmed by the refusal of the Supreme Court of Illinois to entertain a petition for leave to appeal to that court. This Court on motion has permitted this petition to be filed on or before February 9, 1952.

OPINION BELOW.

The controlling opinion which caused this case to come before this Court is reported in 341 Ill.App. 268 as Biggs v. Schwalge, and the opinion of the Appellate Court in this cause is attached hereto as Appendix "A". The Su-

preme Court denied the motion in the Appendix "A", and before a motion to amend the petition for leave to appeal could be legally filed, denied the petition for leave to appeal, and when subsequent motion was made to vacate their order of September 12, 1951, which denied permission for leave to appeal the Appellate Court opinion, and for leave to amend the petition for leave to appeal, this was denied.

JURISDICTION.

The decision of the Appellate Court First District of Illinois became final on September 19, 1951 when petitioner's motion for leave to vacate and amend his petition for leave to appeal was denied by the Supreme Court of Illinois, and the matter at issue was not adjudicated on the merits.

The jurisdiction by appeal is conferred by Title 28, United States Code, section 2101 (c). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment, *Herb* v. *Pitcairn* (324 U. S. 117 (1945), *Hooven and Allison* v. *Evatt* (324 U. S. 652 (1945), *Craig* v. *Harney*, (331 U. S. 367), *Central Union* v. *Edwardsville* (269 U. S. 140), *Parker* v. *Illinois* (333 U. S. 571), *Chesapeake and Ohio Ry. Co.* v. *Kuhn* (284 U. S. 44), *Chicago & E. I. Ry.* v. *Industrial Commission of Illinois* (284 U. S. 296), and as the main question involved is as to whether or not the petitioner can be tried *in absentia* by the Appellate Court of Illinois for a contempt of the Supreme Court for suing on an assignment on the basis of the same illegal act of the same Appellate Court, but another division, when the case came from the State Supreme Court, the petitioner contends that what comes before this Court is an intentional violation of the Fourteenth Amendment to the Constitution of the United States, and what is probably before the Court is a vio-

lation of Section 20 of the Criminal Code 18 U. S. C. (1946 ed.) Section 52, or in any event acts in violation of Title 8 U. S. C. A. Sections 43 and 47 (c).

QUESTIONS PRESENTED.

1. Can the Illinois Supreme Court disregard the provisions of the Magna Carta and the Fourteenth Amendment to the Constitution of the United States, so that they do not have to rule on the intentional violation of the same amendment, which was perpetrated by the Justices they appointed to the Appellate Court for the First District of Illinois?

2. When an employee of a corporation accepts an assignment for a good and valuable consideration and subsequently sues on the assignment, is it automatically a subterfuge to practice law or do the courts have to hold hearings to determine that it is a subterfuge to practice law?

3. Can a litigant practice law without a client?

4. When the Appellate Court tries and convicts the litigant of violating the Attorneys and Counselors Act of Illinois, on their own surmises and guesses, without process or hearing of any kind, is the matter appealable or is it a criminal action requiring a formal complaint in a Federal Court, and are they subject to suit under Title 8 U. S. C. A., sections 43 and 47?

5. Can any court write an opinion based on subject matter over which they never had jurisdiction and not be in violation of the Fourteenth Amendment?

ERRORS RELIED ON FOR REVERSAL.

All the State courts are in violation of the Fourteenth Amendment to the Constitution as they committed the following errors:

1. The first lower court refused to comply with the rules of the Superior Court of Cook County, the Civil Practice Act of Illinois, showed discrimination in favor of defendants' counsel, was insulting and abusive, and is without authority to establish public policy which contravenes a state statute.

2. The second lower court refused to comply with the rules of the Superior Court of Cook County and the Civil Practice Act of Illinois, and wrongfully assumed he had jurisdictional powers, and exceeded his authorized authority.

3. The Supreme Court of Illinois in writing a two page opinion (*Biggs* v. *Plebanek*, 407 Ill. 562), (NOTE IT IS THIS CASE) to transfer the case to the Appellate Court First District was fully cognizant of the fact that plaintiff was suing in part as an assignee, and they could not transfer the cause if it were illegally before them, and they could not sustain the illegal act of the Appellate Court First District, which could not occur, unless they conceded the plaintiff's claims were entitled to an adjudication. By denying motions so that the petition for leave to appeal was incomplete, the Supreme Court's act was arbitrary, as they used technicalities against a layman when there was no appellee.

4. The Appellate Court First District, First Division, having been intentionally apprised by motion by the plaintiff that the opinion *Biggs* v. *Schwalge*, 341 Ill. App. 268 was based on manufactured evidence necessary to make the surmises and guesses of the Appellate Court First District, Third Division support their buffoonery, and illegal ridiculing of the plaintiff, have knowingly continued an illegal act of trying the plaintiff *in absentia* for violating the Attorneys and Counselors Act of Illinois on their surmises and guesses, and their opinion is libelous,

and violates the Fourteenth Amendment, and has for its purpose the estopping of this plaintiff from the privilege granted him by Article 1, Section 10, and Article 4, Sections 1 and 2 of the Constitution of the United States, and the Ninth Amendment.

5. The action of all the courts make the Attorneys and Counselors Act of Illinois (Smith-Hurd Statutes of Illinois, chapter 13 (1949) in violation of the Fourteenth Amendment, and the action of the Appellate Court, First District of Illinois makes Section 92-1-D of the Illinois Civil Practice Act in violation of the same amendment.

STATEMENT OF THE CASE.

1. E. J. Biggs, hereinafter referred to as petitioner, in the year 1920 started a construction business in his own name, and in the year 1928 was granted a copyright on the name Biggs Construction Co. by the State of Illinois, and on July 26, 1930 was adjudicated an involuntary bankrupt in the District Court of Illinois, and on August 1, 1930 (5 days later) was back in business as the E. J. Biggs Construction Co., an Illinois corporation in which he showed at all times that he owned eighteen of the twenty outstanding shares, the other two belonging to Mrs. Biggs, and a Mr. Voltz, and he operated the corporation with moderate success until 1940, when through the illegal activities of the Labor Department of Illinois and the Attorney General's Office of Illinois, and the tying up of his funds by a trial held under the Miller Act on a performance bond on a post office erected in another district of Illinois (thus the action of the local district court was illegal), he decided to suspend the activities of the corporation whose name had been previously changed to the Biggs Construction Co.

2. The illegal act of the Labor Department of Illinois was that working for the Plumbers' Union they sued the

Biggs Construction Co. (the corporation) for unemployment compensation premiums based on a determination and assessment made on employees of 1936, which was prohibited by statute, which the petitioner urged in court as an individual; in the same matter, on the same employees, a piano, household bills, etc., based on an audit made by listing any check made payable to any individual; and was sustained, but as he could not represent the corporation, because he is not an attorney and as it was a nuisance suit by the State of Illinois for the Plumbers' Union, who would have carried it to the higher courts, a judgment which is uncollectable was rendered, which is a matter of record, and they have caused another illegal action since this cause reached the Appellate Court, which is now in the local Circuit Court.

3. From the period of 1941 to 1945 the plaintiff worked for others as a construction superintendent drawing a salary of as high as $50.00 per day, months on end.

4. With the end of the second world war in 1945, those persons with whom he had dealt as a contractor asked him to construct buildings for them, and while he had money to operate a construction business, in view of his difficulties with the State and City agencies working for an illegal plumbing combine, it was decided among the members of the family and on the advice of attorneys that while it would be advantageous to use his name, it would be better to use other peoples' money in the organization of the company until such time as he had the sums necessary to fight the agencies, which was a simple matter as Mrs. Biggs' mother had passed away and she had inherited several thousand dollars, and the new E. J. Biggs Construction Co., an Illinois corporation, was formed in which the petitioner owned no stock, was not an incorporator, or an officer, and contracts were taken

in that name, but in many instances the petitioner did business with his old customers as the Biggs Construction Co., and at present the individual and the corporation have separate bank accounts where funds are transferred as needed, the individual having the larger account.

5. In Illinois it is not possible to engage in various businesses unless one or more officers of a corporation or an employee is licensed, depending upon what the business is, and the licenses of the petitioner are owned by him but are used by the corporation or in his own construction company.

6. Starting in 1945 with $2,000.00 provided by Mrs. Biggs and others and $800.00 invested by this petitioner in a plumbing corporation known as Pipe Trades, Inc., in a matter of three years, starting with no employees, the employees reached a total of 60, and the construction and plumbing companies handled contracts in excess of $250,000.00 per year, when again the Plumbers' Union, working this time through the employees of the City of Chicago, in June of 1948 tied up the permits of the companies for nine months thru the illegal plumbing statutes of Illinois (see *People* v. *Brown*, 407 Ill. 565), the employees dropped to 5, and the money Mrs. Biggs had in the corporation, with a good dividend, was returned to her, and the petitioner acquired all the stock in both corporations in June of 1949.

7. The petitioner previously and subsequently accepted assignments of accounts receivable in lieu of his unpaid wages and money advanced, and when the accounts were not paid, he started suit on the assignments to foreclose on mechanics liens, and the first two to be at issue were this cause and the case of *Biggs* v. *Schwalge*, reported in 341 Ill. App. 268, which were combined as to arguments, when all the defendants in both cases were in de-

fault for want of an affidavit of merits necessary to estop the issuance of a judgment on this petitioner's motion for summary judgment.

8. (It was apparent that the judge was prejudiced as he told the plaintiff that he accepted the word of lawyers because they were sworn officers of the Court, which made it necessary for the plaintiff to prove that the attorney had been imposing on the Court, and when he did by motion, the Court instead of rebuking the attorney for his illegal action, insulted and abused the petitioner, refused to follow the rules of the Court, and permitted the illegal action of the counsel to stand, and a defaulting defendant is still not in default.)

9. The defendants in both cases being in default, and the petitioner insisting on a judgment having asked for it by motion because of the default, the defendant's counsel informed the Court that it was too early for the summary judgment, and he didn't think the petitioner should be allowed to sue as an individual and assignee, and the Court wrote an order saying, "that it appearing that the plaintiff was not an attorney and having five suits pending in the various courts, *and causing trouble to the opposing counsel and courts by reason thereof*" on a certain day this petitioner "on the Court's own motion" *would have "to prove his ability to proceed with the litigation,"* and when that day came, the Court was told in effect to read section 220 and 221 of chapter 121½, section 8 of chapter 12, and section 146 of chapter 110, all of Smith-Hurd Statutes of Illinois (1947) (then) (1949 now), and render the judgment, but the Court wrote an order saying that this petitioner would hire counsel by a certain date or he would dismiss the suits.

10. Petitioner hired counsel with instructions to obtain a change of venue, and when the petitions were pre-

sented, the Court refused to accept them until he dismissed the action which was sued on as the assignee, and wrote an order dismissing part of this cause brought as assignee, and then granted a change of venue in this cause.

11. In the course of the argument, petitioner's counsel on a direct question asked the Court if he didn't think he erred, as he was of the opinion that while an assignment might be open to question to find out if it was good, he thought assignments were legal, and the Court said that was not the issue, it was against Public Policy for an officer of a corporation to sue on an assignment, (the petitioner was not an officer). At the time the Court first raised the question the petitioner owned no stock in the corporation, but by the time the argument was finished (there was about 60 days between all the orders), he had acquired all the stock in both companies, as it was of no value to anyone except himself, because the officials of the City of Chicago, working for the Plumbers' Union were denying him permits, and although he had competent counsel, (Note) (when the Court is prejudiced, and politics is involved, counsel can not fight the Court and stay in the legal profession in Chicago) the Corporation Counsel of Chicago, thru a too lenient judge, was able to stop his permits for nine months, and although there are no licenses for plumbers issued in Illinois as of October 26, 1951, they have the petitioner estopped from making connections to city water mains, and he can not take all classes of work, but at present he does have 4 men in the employ of the three companies.

12. Petitioner appealed the dismissal of the one case dismissed, and appeared before the new judge in this cause and pressed his demand for judgment, the defendants were allowed to withdraw their answer, and the sec-

ond Court struck the complaint approved by the first judge, which was amended so that it read that if the corporation ever had an interest it belonged to the petitioner by virtue of the assignment, and all the other paragraphs were unchanged, which stated that the petitioner had done the work, the contract signed by the individual only was incorporated as part of the complaint as was also a claim for lien which was captioned *E. J. Biggs Construction Co.* v. *Plebanek, et al.*, but which in the body of the claim stated that the petitioner had done the work, and the claim was signed E. J. Biggs Construction Co. on one line and E. J. Biggs on another line, and the claim was for an approximate sum, as the defendants had all the invoices and statements, and refused to return them. (See Appendix "A")

13. The defendants made motion to strike the new complaint, and the new judge informed the petitioner he would have to put in the complaint the amount that the corporation did, and what the individual did, and he was informed that as the contract was with the individual and there was no way that the invoices; turned over to the defendants monthly; could be recovered, his request could not be complied with, and this cause was then dismissed.

14. In the meantime the companion case which is reported in the same report of proceedings (and is part of the abstract in this case), argued by the one counsel, although the causes were not legally combined, and had no relation to each other, was passed on by the Appellate Court First District of Illinois, and the opinion was written by Justice Schwartz, who had just been appointed to the Appellate Court, who had one of the five cases before him, mentioned in the order first issued by the first judge, and although there was no assignment

before any of the Courts (because the Civil Practice Act of Illinois, Section 22 does not require it), and the complaint was affirmed, and the lower court said his decision was based on the assignment being good, the Appellate Court ruled without evidence that the assignment was a subterfuge to practice law, and the opinion *Biggs* v. *Schwalge* (341 Ill. App. 268) is libelous, as the Court will note when it reads it, and as it just so happened the case then before Justice Schwartz in the lower court listed in the order was handled by counsel and was not on an assignment.

15. The opinion was written to ridicule the petitioner, and is based on the surmises and guesses of the Justices of the First District of Illinois (as there was no appellee in either case), who have listed pleadings that do not exist in that case, and divided two pleadings to make it read four, and the listing of pleadings on an opinion is not necessary, and they ignored their own rules which bound them to the statement of the case prepared by the petitioner.

16. The petitioner faced with the problem of making an appeal in this cause, and an opinion stating that to sue on an assignment made the petitioner in contempt of the Illinois Supreme Court, attacked the constitutionality of the Attorneys and Counselors Act of Illinois, chapter 13 Smith-Hurd Statutes of Illinois, and filed his Brief in the Supreme Court of Illinois, which should have decided the issue in this cause, but that Court said that as a direct attack had not been made on the Act in the lower court, this cause should go to the Appellate Court, as a misinterpretation of the Statute did not make a statute unconstitutional, (*Biggs* v. *Plebanek*, 407 Ill. 562—this case) and the petitioner reasoned that if he filed a Brief in the Supreme Court, and they did not hold him

in contempt of Court for filing it, this case would be properly acted upon in the Appellate Court, *but the Appellate Court ignored the Brief, and the First Division stated in effect that in suing on the assignment he was in contempt of the Supreme Court, who had transferred the cause to them.*

17. The petitioner filed a petition for rehearing, and a petition for certificate of importance in the Appellate Court, which was denied, and then a petition for leave to appeal in the Supreme Court of Illinois, and as they had, or should have, nine copies of the Brief neither Court had acted on, the petitioner in his petition for leave to appeal, as his first point attacked the constitutionality of the Attorneys and Counselors Act of Illinois, and by reference incorporated most of the points of the Brief sent to both the Appellate and Supreme Courts, and he incorporated the prayer of the Brief by reference in the Petition for Leave to Appeal, and the Supreme Court of Illinois denied his motion to file the six missing copies of the Brief, and the references were not then incorporated, his petition for leave to appeal was denied, motion was made to vacate the order denying the petition for leave to appeal, and request was made to be allowed to file an amended petition for leave to appeal, which was denied, and on the same day the motion was denied the petitioner argued another case before the same Supreme Court of Illinois covering the same matter of an assignment, and informed the Court that if the two Appellate Courts were correct he should be estopped from arguing for his own money at that hearing, which was not done.

REASONS FOR THE ISSUANCE OF THE WRIT.

1. Over a period of 16 years the Plumbers Union of this area and the Master Plumbers in violation of the

Sherman Act have maintained a monopoly by virtue of the Illinois Plumbing License Law, which the Illinois Supreme Court of Illinois so stated in the opinion of the case of *People* v. *DeWitt Brown* (407 Ill. 565), and they were able to do this because the City officials of Chicago and the employees of the Attorney General's Office put on such a display of legal talent when the plaintiff attacked the law on four occasions, (as many as four assistant attorney generals appearing on a motion, and it is not unusual to have as many as eight members of the Plumbers Union who are employed by the City of Chicago present before the Court), that the local judges including the Federal District Court on three occasions were so intimidated that they decided without going to trial that the same Statute that the Illinois Supreme Court said perpetrated a monopoly for the benefit of Master Plumbers (*People* v. *DeWitt Brown*, 407 Ill. 565), had to be legal and was not a monopoly, and when the petitioner attacked the constitutionality of the City Ordinance on two occasions, the judges refused the petitioner the right to appeal to the Supreme Court, which he did on one occasion anyway, and the Supreme Court sent it to the Appellate Court First District, who in an opinion said that they must decide the case on the premise that the ordinances were valid, as they could not pass on the constitutional questions which they said existed and therefore the petitioner was without equity to attack the ordinance.

2. The case was re-appealed to the Supreme Court, and that Court was advised that as the lower court and the Appellate Court said constitutional questions were involved, they had jurisdiction when they refused to take it, and he was held in contempt of court for saying that, and his Brief was stricken, and he was not allowed to file another, and so he started all over again in the Fed-

eral Court, but this time he sued the City and State officials, the Plumbers Union and the Master Plumbers for his projected losses which were actually $500.00 per working day, as of the Spring of 1948, and he is entitled to triple damages.

3. But the Federal Court, based on the opinion of the case of *Biggs* v. *Schwalge,* 341 Ill. App. 268, on the motion of the Attorney General, States Attorney, and the City Officials, says the petitioner can not sue without an attorney, *and the petitioner does not have the money to spare to hire competent counsel, willing to fight the illegal combination of the Plumbers, Master Plumbers, City and State officials, so that he can recover the some $1,000,000.00 morally and legally due him at this time.*

4. The petitioner contends that as the corporation could not operate without his licenses, the corporations could not do $250,000.00 worth of work in one year on a stated capital of $2000.00 and as he supplied the money needed; he now owns all the stock in the corporation; and he pays for some of the labor and some of the materials used by the corporation; that if he takes an assignment to protect his investment or for salary due, and subsequently has to sue on it, that he represents himself only, and there is no subterfuge in any assignment received for a lawful consideration, and if there was anything wrong, it must be found out in a legal manner, or the Court is violating the Fourteenth Amendment.

5. The petitioner contends that the right of an individual to sue without an attorney extends to suing on assignments received for a lawful consideration, (see the Attorneys and Counselors Act of Illinois) and is one of the privileges granted to him under the Constitution, with its amendments and if, as has occurred here, he acquires enough legal knowledge to prosecute his own

cases, fighting the illegal activities of persons engaged in flouting the laws of the United States, this Court should not permit him to be deprived of his property; which he uses in the public interest every time he attacks an unconstitutional statute, and when he furnishes his briefs to other attorneys who achieved the object the Supreme Court of Illinois would not let him have personally; and he asks this Court to let the people of the City of Chicago know that this Court will not stand idly by, while Appellate Courts in Illinois try a litigant *in absentia* for violating the Attorneys and Counselors Act of Illinois, and convict him on surmises and guesses, because a litigant uses his time and money due from the defendants for the public good, and he asks this Court to insist that the Supreme Court of Illinois waive a layman's error, if it is an error, of asking to have them use two Briefs, filed in the same cause with the same arguments and points to the extent of permitting him to file an amended Brief, so that the cause can be decided on the merits.

6. The petitioner contends that if this Supreme Court can and does waive the error of an attorney in asking for leave to appeal when the application should have been made for a writ of certiorari, the action of the Illinois Supreme Court of Illinois in not permitting the petitioner to amend his petition for leave to appeal, comes within the condemnation of the Fourteenth Amendment, as the petitioner was not heard on his complaint that he was tried *in absentia* for violating a statute by a court not having jurisdiction for that purpose, which statute (Chapter 13 Smith-Hurd Statutes of Illinois 1951) as interpreted, is in violation of the same amendment.

7. The points raised in the Briefs of *Biggs* v. *Plebanek* which are numbered 31669 and 32107 now filed in this Court being the matters to be raised in this court, both

Briefs are to be considered as being written in full herein, if permissible, it being this petitioner's thought that when the Justices of the Appellate Court said that his complaints of the violation of the Fourteenth Amendment are imaginary, that this Court, under its own rulings in the cases cited, in particular as to *Craig* v. *Harney* (331 U. S. 367), *Hooven & Allison Co.* v. *Evatt* (324 U. S. 652), *Parker* v. *Illinois* (333 U. S. 571), should check the Brief, where the violations are correctly stated, and show conclusively that the actual violations exist.

8. *This Court should note and weigh the opinion of the Appellate Court of Illinois by the mis-statement that the Court made, and intentionally allowed to remain in the record after the petition for rehearing was filed, when it said,*

"Otherwise the company would not have a chose in action" when the amended complaint said,

> "The plaintiff E. J. Biggs certifies that he is the bonafide owner of any interest in this chose in action, if there be one, that might have belonged to the E. J. Biggs Construction Co." (Abst. 57)

and the fact that the signatures E. J. Biggs Construction Co. and E. J. Biggs are separate, and that a written contract (Abst. 6) is not signed by the corporation, but by the individual only, shows that this is not a case decided on anything other than the desire to uphold the decision of *Biggs* v. *Schwalge* (341 Ill. App. 268) and should not be condoned.

There is a basic defect in the operation of the Supreme Court of Illinois, which this Court should correct, which consists of the way they interpret what is a constitutional question, which has caused the Appellate Court First District of Illinois, and the Supreme Court of Illinois, to be engaged in an argument as to who should have decided

the issue, which caused the petitioner to be denied the right to sue for his property, because they both say the other Court has jurisdiction, which results in the Appellate Court deciding the case, without the constitutional questions, which is the basis for the Appeal to the Supreme Court, who transfer it to the Appellate Court, which has resulted in both Courts holding this plaintiff in contempt of the Supreme Court for informing them that the Appellate Court says they had jurisdiction, and the Appellate Court saying that the petitioner is in contempt of the Supreme Court because the Supreme Court sent them the case in the first instance.

10. The real trouble of course is that all the Courts have forgotten they are to enforce, and are bound by the Fourteenth Amendment, as to their own actions, and are discriminating against a layman, and have engaged in buffoonery and ridicule to intimidate the petitioner from exercising his right to use the courts in his own person, and a reprimand addressed to all the Illinois Courts involved, from this Court will improve the operation of all the Courts in Illinois, and possibly all over the United States.

This Court should issue the necessary writs and establish for all time that laymen litigants have equal rights with attorneys when they appear in the courts of Illinois, persons suing for money judgments are not to be tried *in absentia* for violating quasi-criminal statutes by Courts of Appeals, and Courts are not to make their own motions which aids their lawyer colleagues, who do not know the provisions of the Civil Practice Act of Illinois.

Respectfully submitted,

E. J. Biggs,
Petitioner.

APPENDIX "A".

PETITION FOR LEAVE TO APPEAL OR IN THE ALTERNATE, BRIEF OF APPELLANT, OR BOTH.

To the Honorable Justices of the Supreme Court:

Now comes Eusebius J. Biggs, appellant in the above entitled cause, and presents his petition for leave to appeal in this court from the decision of the Appellate Court, First District, entered herein. Said court has certified that more than fifteen hundred ($1500.00) dollars is fairly involved in the claim of the appellant in the Superior Court of Cook County.

Appellant in the alternate, asks this court to consider this petition as a brief and appeal on two constitutional questions, as this court has already rendered an opinion in the same case when it was docketed as Case #31669, transferring the cause to the Appellate Court First District, because the plaintiff could not truthfully say that the Attorney and Counselors Act of Illinois, (chapter 13 Smith-Hurd Revised Statutes of Illinois 1941) is in violation of the Fourteenth Amendment to the Constitution of the United States, because the lower court did not mention the Act, and thus it could not be an issue in this case then.

The Appellate Court First District did not actually rule legally on any item in the brief sent to them by this court, but said that because they thought the corporation did the work, in accepting an assignment for protective purposes in this cause, it was the same as taking an assignment for wages in the cause of *Biggs* v. *Schwalge* (341 Ill. App. 268), and, therefore, the lower court could dismiss the case because the plaintiff was suing in part

without an attorney, which makes the plaintiff in violation of the Attorney and Counselors Act.

Had the Appellate Court stopped at that ruling this court could have passed on a simple question of law, but the Appellate Court intentionally insulted and libelled the plaintiff by saying,

> "that (Biggs) has an insatiable desire to practice law",

and as there is no evidence which will support the findings of the Justices in this issue, or in the case of *Biggs v. Schwalge*, 341 Ill. App. 268, that the plaintiff has, had, or will seek a client, or ever collected on an assignment and gave the money back to the corporation, the plaintiff has now been tried and found guilty of violating the Attorney and Counselors Act *in absentia* by the Appellate Court, who do not have jurisdiction for that purpose; purely on inferences, surmises, and guesses, in violation of the Fourteenth Amendment to the Constitution of the United States.

Based on the opinions of this case and *Biggs* v. *Schwalge* (341 Ill. App. 268) which were decided on the arguments of one counsel at the same time before the same judge in the lower court, the Attorney and Counselors Act of Illinois and Section 92-1(d) of the Civil Practice Act of Illinois are in violation of the Fourteenth Amendment to the Constitution of the United States, and, therefore, this court should take jurisdiction of this cause, and rule on the items as set up in the case #31669 to avoid having the Attorney and Counselors Act of Illinois and Section 92-1(d) of the Civil Practice Act being declared in violation of the Fourteenth Amendment to the Constitution of the United States.

The plaintiff will therefore, set up his brief or petition for leave to appeal on Points 1 and 2 attacking the con-

stitutionality of the two items and in Alternate Points 1 and 2, designated as A 1 and A 2 as to the latter, he will point out the errors or illegal acts in, or caused by the findings of the Appellate Court.

Motion.

A complete brief and abstract now being on file in this court, it would be an imposition on the plaintiff to insist that a statement of facts and all the points the Appellate Court ignored, be re-printed, and the Court having all the authority necessary to permit the brief heretofore filed in this court to be used in this re-appeal, the plaintiff moves this Court to consider and accept the brief heretofore filed in the case bearing the same title, and carrying number 31669 of this court as part of this petition for leave to appeal to be accepted as written in full herein, and that he be permitted to file the number of additional copies necessary to replace those, which this court sent to the Appellate Court, so that the total of 15 copies required by the rules of this court are on file, one of which, would be a certified copy if this Court so insists.

Point I.

The Attorney and Counsellors Act of Illinois, Chapter 13 Smith-Hurd Revised Statutes of Illinois 1949, is in violation of the Fourteenth Amendment to the Constitution of the United States.

The plaintiff re-states here his Point III of the brief carrying the number 31669, which is to be considered as written in full herein as to each and every word where appropriate, in support of this Point I.

Point II.

Section 92-1 (d) of the Civil Practice Act of Illinois is in violation of the Fourteenth Amendment to the Constitution of the United States.

Section 92-1(d) of the Civil Practice Act of Illinois is in violation of the Fourteenth Amendment to the Constitution of the United States, in that it is not sufficiently defined, and limited, and therefore can be and has been used by all the Justices of the Appellate Court, First District, to libel and slander the plaintiff herein, because by erroneous conclusions, arrived at by surmises, inferences and guesses, they have tried and found him guilty *in absentia* of violating the Plumbing Ordinance of Chicago, and practicing law without a license, which items were not the matters at issue, in violation of the 14th amendment to the Constitution of the United States; and when in an attempt to point out the illegal act of the first Justice of the Appellate Court who illegally decided that because the plaintiff did not agree with the City of Chicago, as to what should be done under a plumbing permit issued to a licensed master plumber, • • •

OPINION OF THE COURT.

Mr. Justice Feinberg Delivered The Opinion of the Court.

Plaintiff E. J. Biggs, individually (hereinafter for convenience referred to as Biggs), and as assignee of the E. J. Biggs Construction Company (hereinafter referred to as the company), filed this action against defendants to enforce an alleged mechanic's lien. The complaint and amended complaint were on motion stricken, and plaintiff elected to stand on the amended complaint. A motion for summary judgment by plaintiff was denied. This appeal is from the orders striking the amended complaint, dismissing the cause with judgment for costs against plaintiff, and the denial of the motion for summary judgment.

The amended complaint, which except for one sentence is a duplicate of the original complaint, also stricken, had attached to it, as an exhibit, a notice of lien filed with the clerk of the Circuit Court. The notice designates Biggs as the claimant, asserting therein that the claimant made a contract with the owners for the work and material and that extra and additional work and material were furnished. The notice was signed "E. J. Biggs Construction Company, E. J. Biggs." The complaint alleged that Biggs purchased the chose in action from the company for $1.00 and other good and valuable considerations; that plaintiff was engaged in the business or occupation of general contractor in the City of Chicago, and on January 30, 1946, plaintiff entered into a written contract with two of the owners of the premises described in the complaint.

Biggs filed the action and prosecutes this appeal *pro se*. He is not licensed to practice law, and his endeavor in the present action follows the pattern pursued by him in *Biggs* v. *Schwalge*, 341 Ill. App. 268, decided by this court (Second Division). The opinion makes clear that he has made it a practice of taking assignments from the company in more than one instance, so that he could by the device of such assignment prosecute the suit individually and thus persist in practicing law without a license, a purpose condemned in *People* v. *Tinkoff*, 399 Ill. 282, wherein the court said:

> "Any person who has an interest in a matter to be litigated in the courts has the right to appear in his own behalf and protect his own interests so long as he proceeds in accord with rules of practice and procedure.
>
> " * * *
>
> "The purported assignments of interest in litigations to respondent's minor son, were a subterfuge employed by respondent for the purpose of deceiving

the court as to the real parties in interest and to provide a devious procedure by which he thought he could nullify the order of this court disbarring him and striking his name from the roll of attorneys. The practice of law, both in courts and out of courts, by one not licensed, is an illegal usurpation of the privilege of an attorney and is contempt of this court."

The complaint fails to disclose the right of Biggs to sue individually as well as assignee. He alleges he performed the work and furnished the material, yet the notice of lien attached to the complaint as an exhibit, and which under section 36 of the Practice Act becomes a part of the pleading for all purposes (*Morris* v. *Broadview,* 338 Ill. App. 99), is in the name of the company. It is entitled *E. J. Biggs Construction Co.* v. *Anton A. Plebanek, et al.* Obviously, the company did the work and was, in reality, the claimant for the lien; otherwise the company would not have had a chose in action for this work and material, which, the complaint alleges, Biggs purchased and became assignee.

Other imperfections in the complaint appear, which we deem unnecessary to detail. The court was also justified in denying the motion for summary judgment while a motion to strike the complaint was pending, which the court sustained.

The brief contains rambling statements of denial of Biggs' constitutional rights, imaginary, rather than real. It is unfortunate that a claim for mechanic's lien, which might have merit if properly presented, should be jeopardized by the insatiable desire of Biggs to practice law and his inability to know the fundamentals required in the prosecution of such a claim.

The judgment of the Superior Court is affirmed.

AFFIRMED.

NIEMEYER, P.J., and TUOHY, J., concur.

FILED
FEB 23 1952
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 577

EUSEBIUS JAMES BIGGS,
Petitioner,

vs.

ANTON PLEBANEK, VICTORIA PLEBANEK, JOHN BARA, ELEANOR BARA, and the CHICAGO TITLE & TRUST CO.,
Respondents.

MEMORANDUM AND MOTION FOR PERMISSION TO FILE BRIEF AND FOR JUDGMENT AND COSTS AT THIS TIME.

EUSEBIUS J. BIGGS,
8536 S. Peoria Street,
Chicago 20, Illinois,
Petitioner.

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I.

MOTION FOR PERMISSION TO FILE BRIEF.

Now comes Eusebius James Biggs, hereinafter referred to as the petitioner, and moves this Court for permission to file ten copies of the Brief #31669; which was filed in the Appellate Court by the Illinois Supreme Court; in support of his petition for writ of certiorari; and the motion following; which the Clerk of this Court now has, and in support of this motion he sets forth hereinafter his affidavit and suggestions.

E. J. Biggs.

II.

MOTION FOR JUDGMENT AT THIS TIME.

The petitioner moves this Court to remand this cause to a lower court for immediate judgment, and such other action that may be just and meet in the premises at this time, and in support of this action he sets forth hereinafter his affidavit and suggestions.

E. J. Biggs.

AFFIDAVIT AND SUGGESTIONS IN SUPPORT OF MOTIONS.

The petitioner respectfully shows the following:

1. That the only reason there is a cause of action before this Court brought by this petitioner is because when the defendants in causes in the Superior Court of Cook County Illinois were in default for want of an answer or other pleadings necessary to offset this petitioner's motion for summary judgment, the Honorable Donald McKinley of the Superior Court of Cook County, Illinois, on his own motions illegally struck the plaintiff's complaints in whole or in part, because he said it was against public policy for an officer of a corporation to sue for money due on a good assignment in his own person, and when he was informed that the petitioner was not an officer, he did not take that into consideration (Rec. 151-152-153), and the judges of the lower and Appellate Courts of Cook County, in order to sustain his ruling, in effect ruled the same assignments were illegal, by imputing an illegal motive for the assignment (341 Ill. App. 268 and Appendix "A"), and compared the action of this plaintiff in taking assignments to be similar to the illegal action of a disbarred attorney, who served a term in the Federal penitentiary, (*People ex rel Chicago Bar Assn.* v. *Tinkhoff*, 399

Ill. 282) and on their own surmises and guesses, illegally convicted this petitioner of violating the Attorney and Counselors Act of Illinois, (*Biggs* v. *Schwalge*, 341 Ill. App. 268), which could only be legally done on a proper complaint and proper evidence by the Supreme Court of Illinois.

2. On January 23rd 1952 the Supreme Court of Illinois settled the question as to whether this petitioner could sue *pro se* on assignments in his favor, stating that he could sue on assignments from the E. J. Biggs Construction Co., and a dismissal for that item was illegal in the case of *Biggs* v. *Spader* #31996, and thus the legal question which caused the illegal acts done for the repondents herein on that item is moot, and some of the questions need not be decided in this case, but the decision proved that six Appellate Court justices and three judges of Illinois had libelled the petitioner by innuendo, while intentionally violating the Fourteenth Amendment to the Constitution of the United States.

3. Had the decisions of the lower court been made with proper motion and hearings held thereon, this cause could now be considered as being moot after the money judgment is rendered and needing no further action by this court, but as the action of the lower courts of dismissing suits because they were brought by this petitioner *pro se* as an assignee, has been declared an illegal act of a judge, this Court is faced with the odd situation of an illegal act of a judge, being accomplished by illegal proceedings, and being illegally sustained by other illegal acts of other Courts, not having jurisdiction of this petitioner for the purpose they used or the subject matter which made their opinion.

4. The petitioner having been sustained in his contention that he can sue on assignments, should recover the money the lower courts illegally denied him now, and although the Brief #31669 will show that the Courts and counsel intentionally violated the Fourteenth Amendment, the decision to go into that phase of this case to render an opinion is one that the Court should decide on their own initiative at this time. The only question being, can or will this Court spare the time to go into those matters, to the extent of writing an opinion.

5. The Brief #31669 of the Illinois Supreme Court, that the Appellate Court has said in Appendix "A" *contained alleged violations of the Fourteenth Amendment that were imaginary rather than real,* is not now before this Court, because an assistant Clerk of this Court says it can not be filed, but has been left with the Clerk of this Court, *and is certified as part of the Illinois Supreme Court record of this same action,* so that this Court can use it to ascertain as to whether or not this Court will go further than the Illinois Supreme Court has gone by discrediting the opinion Appendix "A", and it should be filed, and having in mind that this petitioner was the victim of the intentional violation of the Fourteenth Amendment by judges, justices and counsel, who all worked together to make this petitioner come here, the petitioner would like to go thru with the arguments to establish the right of a litigant to equal protection of the rules of the court, which have been denied him by all branches of the Courts of Illinois, including the Supreme Court of Illinois, and have a determination made by this Court as to what a litigant can do when the Courts and counsel conspire to violate the Fourteenth Amendment to estop a judgment then due.

6. Having secured the right to sue in his own person, the petitioner as stated before, does not wish to add to the burden of this Court's work unless this Court agrees that the illegal acts set forth in the Brief #31669 and Petition for Writ of Certiorari make the issue of cleaning up the courts of Cook County, Illinois an item that would make other counties in the various states note that this Court will sustain a layman if his cause is just, and this petitioner believes this Court should recommend disbarment of counsel for the items set forth in the Brief of this case #31669 of the Illinois Supreme Court, which they and the Appellate Court of Illinois refused to pass on.

7. This petitioner has suggested to the respondents herein that they agree to reduce the record and try to reach an agreement on January 29th, 1952 to avoid printing the record and docketing this case but they refused to agree, and on February 2nd, 1952 it was necessary for him to fly to Washington D. C. to complete the record. The unnecessary expense runs approximately as follows; deposit with Clerk $150.00, plane fare etc. $100.00, time $150.00, and he believes this should be added to the judgment.

8. With the aforesaid explanation, so that this Court can proceed or stop this cause at this point, this petitioner has moved the Court to remand the case back to the Superior Court of Cook County, Illinois, with instructions to render the amount due on the motion for summary judgment at the time of the Court's illegal act of dismissal, or to such other court as this Court so sees fit, and that this petitioner have all his costs in all courts, having in mind that this action contemplated now would comply with this Court's ruling, in the case of *United States* v.

Steffin, 338 U. S. 902, because this Court will sustain the ruling of the Illinois Supreme Court, that suing on an assignment is not a violation of the Attorneys and Counsellors Act of Illinois.

It is unfortunate that the Supreme Court of Illinois waited until the fourth case was on its way to this Court before they made that ruling and it could be that this Court should so inform them.

Respectfully submitted,

E. J. Biggs,
Petitioner.

State of Illinois }
County of Cook } ss

E. J. Biggs being duly sworn on oath, deposes and says the facts set forth hereinafter and heretofore are of his own knowledge, the case of *Biggs* v. *Spader* is a *per curiam* order not yet printed, and there is no appellee in that cause, and all the facts stated are true in substance and in fact.

E. J. Biggs.

Subscribed and sworn to
before me this ..... day of
February, 1952.

.....
Notary Public.

Since this motion was printed the case of *Biggs* v. *Spader*, #31996 has been reported in the so-called advance sheets as 411 Ill. 42.